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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/039,909 | 10/19/2001 | Sunny C. Vanderbeck | 069312.0106 | 8735 |

24573 7590 02/15/2005

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| EXAMINER |
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ARTHUR JEANGLAUDE, GERTRUDE

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| ART UNIT | PAPER NUMBER |
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2144

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,909

Applicant(s)

VANDERBECK ET AL.

Examiner

Gertrude Arthur-Jeanglaude

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-56 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 13, 22-31, 34, 37-46, 49, 52 and 53 is/are rejected.
- 7) ☒ Claim(s) 10-11, 14-21, 32-33, 35-36, 47-48, 50-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20402.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-9, 22-27, 30-31, 37-42, 45-46, 52-53, are rejected under 35 U.S.C. 102(e) as being anticipated by Chung et al. (U.S. 6,470,389).

As to claims 1, 24, 39 Chung et al. disclose a method and system for multi-site clustering in a network (See abstract), comprising receiving a domain name from a client at a first domain name server (See col. 1, lines 62-67-col. 2, lines 1-14). It discloses a first network address (16) and a second network address (20) associated with the domain name, the first network address associated with a first site that includes a load balancer coupled to a plurality of servers (See col. 1, lines 40-57;col. 10, lines 37-45) the second network address associated with a second site that includes a second domain name server; via the domain name service (DNS) and determining whether the first site is available to serve the client; determining whether the second site is available to serve the client; communicating the first network address followed by the second network address to the client based at least partially on a determination that the first site and the second site are available; and communicating the second network

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address to the client based at least partially on a determination that the first site is not available (See col. lines)

As to claims 2, 25, 40, Chung et al. disclose determining whether the first site is available comprises determining whether at least one of the web servers is available (See col. 1, lines 58-68-col. 2, lines 1-14; col. 3, lines 66-67-col. 4, lines 1-18).

As to claims 3, 26, 41, Chung et al. disclose (in col. 4, lines 1-44) determining whether at least one of the web servers is available comprises: communicating a message to the web servers; and determining whether the web servers respond to the message.

As to claims 4, 27, 42, Chung et al. disclose the web servers (as shown in Figs 1,2) are coupled to a database (28-2 as shown in Fig.1; data link); and determining whether the first site is available comprises determining whether the database is available (See col. 4, lines 35-44).

As to claim 7, Chung et al. disclose wherein determining whether the second site is available comprises determining whether the second domain name server is available (See col. 10, lines 37-67).

As to claims 8, 30, 45, Chung et al. disclose determining whether the second domain name server is available comprises determining if at least one message has been received at the first domain name server from the second domain name server during each of a plurality of time periods (See col. 10, lines 37-67).

As to claims 9, 31, 46, Chung et al. disclose communicating the first network address to the client when the first site is available and the second site is not available (see col. 10, lines 37-67).

As to claims 22-23, 37-38, 52-53, Chung et al. disclose the web servers are operable to execute stateless applications and the client is operable to use the first network address until the first network address fails and then use the second network address (See col. 8, lines 50-67; col. 10, lines 37-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 28, 43, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung et al. (U.S. 6,470,389) in view of Sollenberger et al. (US Pub 20020152279).

As to claims 5, 28, 43, Chung et al. disclose the step of determining whether the database is available but fails to specifically disclose that the database comprises: instructing at least one of the web servers to execute a web page; receiving the executed web page; and determining if the executed web page contains at least one expected keyword. In an analogous art, Sollenberger et al. disclose an intranet portal wherein it discloses a web server to execute a web page and determining if the

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executed web page contain at least one expected keyword (See paragraph 0029, 0044). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Chung et al. with that of Sollenberger et al. by having the web server executing a web page in order to provide access data to the user.

Claims 6, 29, 44, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung et al. (U.S. 6,470,389) in view of Sollenberger et al. (US 20020152279) and further in view of Ohtani et al. (US Pub. 20010051975)

As to claims 6, 29, 44, Chung et al. and Sollenberger et al. disclose all but fail to specifically disclose the expected keyword comprises a name of a database server serving the database. In an analogous art, Ohtani et al. disclose keyword comprises a name of a database server serving the database (See paragraph 0092). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Chung et al. and Sollenberger et al. with that of Ohtani et al. by having a keyword to comprise a name of a database server serving the database in order to transfer information according to search request.

Claims 12-13, 34, 49, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung et al. (U.S. 6,470,389) in view of Kurganov (U.S 6,807,257).

As to claims 12-13, 34, 49, Chung et al. disclose all but fail to specifically disclose the first site includes a first database; and the second site includes a second database nor synchronizing the first and second databases. In an analogous art, Kurganov discloses a computer, internet and telecommunications based network wherein it discloses a first site comprising a first database and a second site comprising

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a second database (See col.9, lines 46-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Chung et al. with that of Kurganov by having a first and second site with a first and second database respectively for sending and managing information from or to subscriber of the network.

Allowable Subject Matter

Claims 10-11, 14-21, 32-33, 35-36, 47-48, 50-51, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to disclose the limitation of claim 10, such as communicating the first network address followed by the second network address to the client is also based on at least one of a load placed on each of the first and second sites, a response time of each of the first and second sites, and a locality of the client to each of the first and second sites. Nor does the prior art disclose the limitation of claim 11, as recited communicating the second network address followed by the first network address to the client based on the determination that the first site and the second site are available and at least one of the load placed on each of the first and second sites, the response time of each of the first and second sites, and the locality of the client to each of the first and second sites.

The prior art fails to disclose the limitation of claim 14 wherein synchronizing information in the first and second databases comprises making first changes to the

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information in the first database; communicating the first changes to the second database; receiving second changes from the second database; and replicating the second changes to the information in the first database.

Claims 54-56 are allowed.

The prior art fails to disclose a method and system for multi-site clustering in a network comprising communicating the first network address followed by the second network address to the client based on a determination that the first site and the second site are available and on at least one of a load placed on each of the first and second sites, a response time of each of the first and second sites, and a locality of the client to each of the first and second sites.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is (571) 272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571) 272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GAJ



February 13, 2005



GERTRUDE A. JEANGLAUE
PRIMARY EXAMINER